

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION


United States,)	No. 3:08-cr-97-W
)	
Plaintiff)	
)	
v.)	ORDER
)	
(1) Kelvin Moss,)	
(2) Shonn McCain)	
Defendant)	

Pursuant to Fed. R. Crim. Proc. 41 and the Fourth Amendment, the United States of America on this day properly sought a Warrant for the search and seizure of the physical evidence previously sought from the Defendants in this case. This Court issued said Warrant under Case Number 3:08-mj-161. Although the Application, Affidavit and Warrant in 3:08-mj-161 are not public information until the return of the Warrant, counsel of record in this case may obtain copies of the Application, Affidavit and Warrant at this time either from the Clerk of Court or the United States Attorney.¹

Because the Warrant has now been issued pursuant to a lawful ex parte showing of probable cause upon a sworn affidavit, this Court's Order of July 18, 2008 (Doc. No. 19) which is currently stayed is now moot. Accordingly that Order is VACATED and ineffective.

IT IS SO ORDERED.

Signed: July 23, 2008


Frank D. Whitney
United States District Judge



¹The issuance of an ex parte Warrant pursuant to Rule 41(a) does not deprive the Defendants of a remedy. Defendants may contest the search and seizure with a properly made motion to suppress after the evidence is collected.